

**MINUTES OF THE
SOUTH OGDEN CITY COUNCIL MEETING
Tuesday, August 19, 2014 – 6:00 p.m.
Council Chambers, City Hall**

COUNCIL MEMBERS PRESENT

Mayor James F. Minster, Council Members Sallee Orr, Wayne Smith, Bryan Benard, Brent Strate and Russ Porter

STAFF MEMBERS PRESENT

City Manager Matthew Dixon, City Attorney Ken Bradshaw, Parks and Public Works Director Jon Andersen, Chief of Police Darin Parke, Fire Chief Cameron West and Recorder Leesa Kapetanov

CITIZENS PRESENT

Jim Pearce, Jerry Cottrell, Stephen Hensley, James McGregor, Roz O'Loughlin, Laurel DeGroot, Hason Schow, Douglas Hale, Nancy Gibson-Fagg, Kim Didier, Adam Hensley, Gary Boyer and others

I. OPENING CEREMONY

A. Call to Order

Mayor James F. Minster called the meeting to order at 6:02 pm and asked for a motion to convene.

Council Member Smith moved to convene as the South Ogden City Council, with a second from Council Member Porter. In a voice vote Council Members Strate, Orr, Benard, Porter and Smith all voted aye.

B. Prayer/Moment of Silence

The mayor led those present in a moment of silence.

C. Pledge of Allegiance

Council Member Smith directed everyone in the Pledge of Allegiance.

The mayor indicated it was time for public comments; no action would be taken on comments and those speaking should limit their comments to three minutes.

II. PUBLIC COMMENTS

Jerry Cottrell, 5765 S 1075 E – referred to the final decision of the Planning Commission, page three, where the planning commission asserted it was the land use authority. He said the planning commission was not the land use authority a year ago or even six months ago. He said the planning commission asserts they received that authority from a 1980 ordinance; if that was true, why were people just finding out about it.

Again, if that was the case, would that not invalidate all land use decisions by the City Council from 1980 to the present? Mr. Cottrell had looked at State Code 10-9a-103(23)(b) which said the land use authority is whoever the legislative body appoints, or if they don't appoint someone, it's them. If the planning commission was not the land use authority six months ago, according to state law, it should be the city council. If the planning commission is not the land use authority, then there is no final decision for Mr. Jorgenson's CUP application, and the council should treat the planning commission's decision as a recommendation. (Mr. Cottrell gave a written version of his comments to City Recorder Kapetanov; see Attachment A)

Laurel DeGroot, 1079 E 5950 S – the question had been raised on the city council's power to make a decision on the Monastery matter, and she would like a clear explanation and decision. She cited city code and came to the conclusion that the city council was the land use authority and they should have a say and a role in the monastery property issue. The council should treat the August 14th Planning Commission decision as a recommendation for the council to review it and make a final decision. She also asked that a public hearing be held so that specific concerns be addressed by the planning commission.

Kim Didier, 5975 S 1055 E – stated that at the last council meeting, Council Member Orr asked that clarifying land use be on the agenda for this night's meeting. Ms. Didier noted it was not on the agenda. She would like to know when it would be discussed. She also asked why the planning commission's final decision had not been reported to the city council as per city code. Ms. Didier felt the planning commission's decision on the conditional use permit was incomplete, ambiguous and flawed; she would feel better if the elected officials reviewed the decision, even if they affirmed the planning commission's decision. The council had a role and needed to insert itself in this.

Rosalind O'Loughlin, 1068 E 5750 S – said when it came to considering expansion of permitted educational use, City Attorney Bradshaw said it mattered how an ordinance was motioned. When reading the minutes concerning Ordinance 13-11, she found no mention of "re-assigning land use authority to the planning commission" and no mention of "changing the conditional use application process". If the way an ordinance was motioned mattered for educational use, does it not matter for 13-11. She wanted to see some consistency. City Attorney Bradshaw should review 13-11. If the proposed changes for education use were not properly motioned, and were therefore invalid, couldn't the same be said for 13-11.

Steven Hensley, 1071 E 5950 S – it appears the planning commission, by issuing their final decision letter on August 14, 2014, did not abide by the conditions set forth in the letter on page six; it stated that Mr. Jorgenson would need to conform to the standards of a residential facility set forth in South Ogden City Code. However, in the decision letter it states that there is no other residential facility for the disabled located within one half mile of the monastery property and refers to the distance map. Mr. Hensley stated they had calculated the distance between the monastery and Manor Care, and the distance was less than one half mile. Why did the city not share their method of calculation with them? The letter also states the manor care facility is not a residential facility as defined in South Ogden City Code, because it is not located in a single family dwelling structure; Mr. Hensley said the monastery wasn't either. The city couldn't have it both ways. The applicant should have to apply for a zoning change to allow their business in his residential area.

Nancy Gibson, 1061 E 5950 S – the planning commission states that Mr. Jorgenson would have to comply to various conditions. Ms. Gibson asked how the city would enforce the conditions and who would enforce them. The approval of twenty beds was arbitrary and capricious. Did twenty come from the Fair Housing Act? No. The nature and character of the neighborhood is based on what theoretically might have been; only seven nuns lived at the monastery, not twenty. The staffing cap of ten FTE's was ambiguous. Was it ten FTE's per 24 hour or per shift? Who would

interpret the meaning? The applicant? Also, intensive outpatient therapy was not addressed in the letter; it had been mentioned in the applicant's brochures for other facilities. If an out-patient program was allowed to be run, it would change the character of the neighborhood. It should be addressed and Mr. Jorgenson should be made aware that it should not be allowed. Ms. Gibson then said the applicant had stated he would run a closed facility, but the property was not fully fenced. How would it be resolved? These questions needed to be addressed before the CUP was put into effect. She asked that the CUP be reviewed and all matters be addressed and all parties clear as to what the conditions meant and how they will be enforced.

Attorney Adam Hensley, 2510 Washington Blvd., Ste. 200 – recognized the time and energy put into the matter but wanted to make sure the time and effort produced the correct result. Whether or not the council or the city planners were the land use authority in relation to conditional use permits, the city council still had oversight. They council was responsible for what the planners produce. He asked if there was any oversight in the process the city planners took in producing their decision. If there was none, there should have been; it was the council's responsibility. If the council was not happy with their result, the council had the opportunity and responsibility to correct and review what had been done.

Mr. Hensley also stated they had issued a GRAMA request which had not been complied with; it was breaking the law. It was mandatory that city workers comply; if not, their jobs were in jeopardy. Mr. Hensley said the documents made clear the city knew about the conditional use permit before they made it public that it was coming through. Another point was that the special city council meeting called had left issues unresolved. Mr. Hensley said he had appealed it to the city council and city attorney within ten days; it had been two weeks, and he had not received an answer to the appeal. He said the letter had to be responded to; it was not optional. As the city council, they had the responsibility to terminate someone's job, i.e. anyone who did not want to respond to a GRAMA request or an appeal process.

Jason Schow, 329 Chimes View – Mr. Schow was concerned about his water bill. He said in March, his water bill was over \$300 with the usage more than ten times what his family used in a month. There were no leaks, repairs, running toilets or faucets, but during that time frame work was being done on a water line leak on the street behind his home. He thought it might have affected the water going through his meter, but told it was not a possibility. He had spoken with city employees but not heard back and then received a final shut-off notice. He was contesting the bill and did not think his water should be shut off.

Doug Hale, 5944 S 1075 E – was there to speak concerning the planning commission decision. The decision stipulated the applicant would not house any violent people. Mr. Hale wondered how the applicant would determine if they were violent. Would he do a background check, ask on an application? Who would determine if they were violent? Another concern Mr. Hale had was about traffic. It was stated there would not be any parking allowed on the street, but no one had done a traffic study to determine what the true impact would be.

There were no other public comments.

III. RECOGNITION OF SCOUTS/STUDENTS PRESENT

There were no scouts or students present.

IV. CONSENT AGENDA

- A. Approval of August 5, 2014 Council Minutes**
- B. Approval of Bid Award to M&M Asphalt for Road Crack Sealing**
- C. Set Date For Public Hearing (October 21, 2014 at 6 pm or as soon as the agenda permits)
To Receive and Consider Comments on the Intent of South Ogden to Adjust Its Boundary
With Ogden City**

The mayor read through the items on the consent agenda and asked if there were any comments. City Recorder Leesa Kapetanov reminded the mayor the minutes had not been completed. Council Member Strate asked about the minutes from the July 22, 2014 Special Meeting. Ms. Kapetanov stated they had not been completed either, but a draft version would be available if needed before they were approved at the next meeting. There were no more questions concerning the consent agenda.

Council Member Porter moved to approve the consent agenda, items B and C. The motion was seconded by Council Member Smith. Council Members Benard, Porter, Orr and Smith voted aye, Council Member Strate voted nay.

V. DISCUSSION / ACTION ITEMS

- A. Consideration of Resolution 14-21 – Approving an Interlocal Agreement With Weber County for Recycling Incentives**

City Manager Dixon explained Weber County had created this interlocal agreement as an incentive for recycling. The county had increased tipping fees to the city earlier in the year by \$2 a ton for all garbage and this incentive would give the city back \$10 per ton of recyclable materials, making the net increase to the city approximately \$1000 per year. Mr. Dixon said the contract had been reviewed by the garbage service provider and staff, and staff recommended approval.

Council Member Orr said she felt residents were confused as to what they could and couldn't recycle. She requested that "Attachment A" from the resolution be included in the newsletter so people would know what was allowed. Council Members Strate and Porter agreed. The council asked several questions concerning the interlocal agreement and concluded the discussion. Mayor Minster then called for a motion.

Council Member Benard moved to adopt Resolution 14-21, followed by a second from Council Member Orr. There was no further discussion. The mayor called the vote:

| | |
|-------------------------------|------------|
| Council Member Benard- | Yes |
| Council Member Orr- | Yes |
| Council Member Porter- | Yes |
| Council Member Smith- | Yes |
| Council Member Strate- | Yes |

The resolution was adopted.

- B. Consideration of Resolution 14-22 – Declaring the Intent of South Ogden City to Adjust Its Boundary With Ogden City**

City Manager Dixon explained this boundary adjustment involved 20 properties along 950 East between 4200 and 4510 South. Staff was working with Ogden City who had already approved a resolution to begin the process. This was basically a clean-up item.

Council Member Benard asked if the property owners would be notified. City Recorder Kapetanov said the city had given notice as required by the state, and the property owners would be notified as well. There was no further discussion. The mayor entertained a motion concerning Resolution 14-22.

Council Member Porter moved to adopt Resolution 14-22, declaring the intent to adjust a boundary with Ogden City. Council Member Smith seconded the motion. After determining there was no further discussion, Mayor Minster called the vote:

| | |
|------------------------|-----|
| Council Member Porter- | Yes |
| Council Member Smith- | Yes |
| Council Member Strate- | Yes |
| Council Member Benard- | Yes |
| Council Member Orr- | Yes |

The motion carried.

C. Consideration of Resolution 14-23 – Ratifying the Submission of RAMP Grant Agreements

City Manager Dixon pointed out the city passed this agreement each year after receiving RAMP Grant monies. The agreement acknowledged the city accepted the grants and would use the money in accordance with RAMP guidelines. Included was a grant to help with the “Open Mic Night” at the Nature Park. The mayor asked if there were any questions concerning the resolution, and seeing none, he called for a motion.

Council Member Orr moved to approve Resolution 14-23. The motion was seconded by Council Member Porter. There was no further discussion from the council and the mayor called the vote:

| | |
|------------------------|-----|
| Council Member Orr- | Yes |
| Council Member Porter- | Yes |
| Council Member Benard- | Yes |
| Council Member Strate- | Yes |
| Council Member Smith- | Yes |

Resolution 14-23 was approved.

D. Discussion on Capital Outlay

City Manager Dixon reminded the council that in an effort to balance the budget in June, all capital outlay requests had been removed. Now that all the numbers were in, it appeared there was some money available for capital projects. City Finance Director Steve Liebersbach had provided the council with a fund balance analysis for the council to consider in their discussion. Staff was hoping to get some direction as to how much the council wanted to allocate for capital outlay. Mr. Dixon also indicated he had a prioritized list of capital requests from the departments that he would make available to the council members at their request.

Mr. Dixon then reviewed the fund balance analysis with the council. Council Member Strate asked if the restricted funds were included in the fund balance or not; he felt he would need to know to make a decision. Mr. Dixon said he wasn’t sure if the funds were included. The council determined the item would be put on the next agenda for further discussion when more information was available. Council Member Smith also requested

a copy of the prioritized list from each department. Council Member Porter was in favor of granting the departments one-time monies for capital projects; he was comfortable with being between 17.5% and 18% of fund balance. Council Member Benard felt the council's philosophy had not changed on the position that when there were critical needs, the council was willing to meet them with the capital funds, as well as look to some long term needs. He wanted to make sure the city had the ability to purchase land that may become available from the school district i.e. the city should set some of this capital outlay money aside for the land purchases.

VI. DEPARTMENT DIRECTOR REPORTS

A. Parks and Public Works Director Jon Andersen – Project Updates

Mr. Andersen reported on several projects in the city:

Chambers Road Project – would be putting road base down in the next few days. This project should be completed in approximately two weeks.

1075 East Road Project – staff had held a pro-con meeting. Work was scheduled to begin on September 2nd.

Street Overlays – The bidding had closed and would be on the next council agenda for the award of the bid.

Friendship Park Tennis Courts – the resurfacing had been started, but the weather was delaying completion.

Willow Wood Lane Street Project – the waterline project was near completion.

42nd Street Storm Drain Repair – the recent storm had washed out portions of the road and storm drain. The road had been closed while repairs were made, but everything had been completed and the road opened.

Friendship Park – the electrical meter that furnished power to the scoreboards had gone out; to meet current electrical code, the meter would need to be moved to a different location and replaced. It would cost between \$4,000 and \$8,000.

Mr. Andersen concluded his report by informing the council the public works department had been flushing fire hydrants throughout the city, causing some of the water to be discolored. He warned the council members they might be getting calls about it.

The council then asked several questions about the power in the park, as well as RAMP funding. Council Member Smith brought up some concerns with applying for a RAMP grant for a restroom facility at the junior high. He requested a work session be set up to review the plans for the facility to make sure they met both the school district's as well as the city's needs.

B. Fire Chief Cameron West

Chief West informed the council he would be completing Emergency Management Training at EMI next month. He encouraged the council members to become NIMS compliant by the time he completed his training on September 20th.

VII. REPORTS

- A. **Mayor** – reminded everyone of the employee appreciation lunch on Friday at the 40th Street Park. He also reminded the council of the Senior Citizen Barbeque on September 8th. Those who were willing to help cook and serve should notify him.

B. **City Council Members**

Council Member Benard – commended Mr. Andersen for the road work on Chambers. He had heard that the businesses were not struggling too badly from it.

Council Member Orr – asked Chief West concerning the fee for fire pits. The chief said the fee had not been put on the consolidated fee schedule; he had also done research and no other cities in the county were charging a fee. Staff had determined no fees for fire pits should be charged.

Ms. Orr then said there had been many questions raised from residents earlier in the meeting and she would like to meet and discuss them.

Council Member Porter – pointed out Roy was purchasing property from Weber County School District; staff should look into the matter to see what the process was.

Council Member Smith – expressed his concerns on the South Ogden road being worked on by Washington Terrace City. He wanted to make sure things were done correctly; construction had already begun.

Council Member Strate – (as per Council Member Strate's request, the following is a transcription of his report): Council Member Strate: Yes, I actually have the same concern that Council Member Smith had concerning Adams Avenue Parkway because I think that the main concern that the council had, speaking for myself, was that, uh, there was South Ogden property that they were asking to be ceded to us as a result of that and I am just concerned about that. And also along those lines, uh, we go back to school tomorrow and the last time we were just ending school, we uh, were uh we all looked into updating the general plan, especially regarding the property south of the junior high and I guess that's to the engineers. How long does that take and what's the circumstance? City Manager Dixon: We defer to Jon for a follow-up on that. Council Member Strate: Oh, sure. Parks and Public Works Director Jon Andersen: What was the question? Matt Dixon: The, uh work the engineer is doing on the annexation plan. Jon Andersen: On south, on the property west? Matt Dixon: Yes. Jon Andersen: Brad Jensen, in house, him and John Biergard are working on that as we speak. Um, I'll see if we can have something for you the first or second of September. Council Member Strate: Yah. Council Member Smith: Remind them not to leave upper Uintah out of... Jon Andersen: out of there. Yah, he's gotta do his, uh, models, you know, to see storm water, what everything would end up being there, and I know there are those calculations. I know, uh, we were out there for the pre-construction for one of the road meetings a week ago, and he was working on that also. Matt Dixon: And I guess just to be clear, so we can give a report on where that's at, (Council Member Strate: Okay.) once they get that done. Council Member Strate: Good enough. City Manager Dixon: Then we'll actually go to the planning commission for a review before it... (Council Member Strate: Right.) would then come to you as a recommendation, so. Council Member Strate: Okay. Uh, also Jon, once again, thanks for the note. Mr. Williams called me as soon as his light was fixed and I went down one door and told Mr. Porter, so. Jon Andersen: We try, and you know the whole process...so, but it is fixed. Council Member Strate: Yah, but thank you very much. And we already talked about, it seems like weddings have become a common occurrence down at the Nature Park, and it has... (Council Member Orr:

Really.) caused a little bit of egress and ingress issues in that neighborhood, having experienced it myself, and, uh, there's just not the parking to accommodate some of that. We understand like during South Ogden Days, but I guess we don't have a policy in place regarding weddings as far as charging for the amphitheater and things like that. So, just something to think about, maybe not a too big of a deal. I did have a couple questions for Mr. Bradshaw, because I am confused by some of the things that were talked about today. I just need some clarification, uh, on the record, so...

Mayor Minster: Brent, this is a time for report and not to go back into some of the things that we've talked about with the issues at hand, okay?

Council Member Strate: Okay, well I guess my concern is, is I think I can talk about whatever I wish, but I'm not going to be confrontational, I just have a couple of clarifying questions.

Mayor Minster: Okay, just, you know...

Council Member Strate: I asked a question of Jon, I asked a question here, there was free response. I don't want to be confrontational.

Mayor Minster: Let's just see what you have to ask, okay?

Council Member Strate: Okay. That would be fine. Yah. So, on an ordinance, and I know this is a simple question, and I kinda know the answer, but I don't in a sense too. Is an ordinance, strictly the approval of an ordinance, the approval, a legislative action?

City Attorney Bradshaw: Yes.

Council Member Strate: Okay, can you give me an example of a zoning ordinance? I mean, I know 13-11, but I don't want to talk about that, I really don't.

Mr. Bradshaw: Well a zoning ordinance is any ordinance that dealt with zoning; that's circular.

Council Member Strate: Okay.

Mr. Bradshaw: If for example, you have a piece of property and it's currently zoned R-1 and you think it needs to be an R-2, you'd adopt an ordinance changing that zoning.

Council Member Strate: Okay, now when the planning commission has a zoning ordinance, because it begins with them, right, and then they give recommendations, or am I wrong about that?

Mr. Bradshaw: You have to make all land use changes, if you will for lack of a better term right now, have to originate with them.

Council Member Strate: Okay. So. What happens if, for example, we recommended at our last council meeting, because it starts with them, it originates with them, that they work on a zoning ordinance dealing with, uh, the Fair Housing Act, and basically updating our code to not be too specific. What if they did that, and it's unlikely that they would work on something like that and then disapprove it, but what would happen if the planning commission disapproved a zoning ordinance?

Ken Bradshaw: Well they don't approve or dis-approve ordinances. What they do is make a recommendation to you all that you either adopt an ordinance, amend an ordinance or do something in that vein. The act of adopting or amending is yours, but they will bring you a recommendation. Once that comes to you, then as the legislative body, you have the right to adopt it, not adopt it or amend it.

Council Member Strate: So, it would be the same thing with a map amendment? A map amendment will work the same way? Is that correct?

Mr. Bradshaw: To which map do you refer?

Council Member Strate: Well, just a map amendment in general.

Mr. Bradshaw: Well you have a zoning map, you have a number of maps.

Council Member Strate: Okay, a zoning map amendment.

Mr. Bradshaw: If you wanted to make...see the zoning map tells you what your present zoning is, but if you have a general plan map, it would tell you what you would anticipate doing in the future, and those are two different animals. There's really not much to do once you've adopted an ordinance establishing a zone that then informs the change on the zoning map; but if you want to talk about your general plan amendment or some future change that you want to see, for example you may have an area that's now residential but your planning would be that in the future you want to encourage some kind of commercial growth, you may have a public hearing and make an amendment to the general plan to talk about re-zoning this entire area commercial. It doesn't change the present use but does make provision that in the future someone can come in and ask for a re-zone. So again, it depends on which map you're talking about.

Council Member Strate: Okay. Well, the reason I ask is

because as they were asking the questions about 10-1-14, that question came to my mind regarding zoning ordinances, map amendments, conditional use permits and things like that. So, that was why I asked that question. And then the other question I had is, is I guess they already posed it, so, what does, what did they mean, or what does it mean when it says this title? Is that, if it says this title, is that, how big is that? Ken Bradshaw: Depending on the language in the entire body of the code, it can refer to an individual title, depending on how it's defined, or it may apply to more than one of the titles in your code. So it depends on how it's written. Council Member Strate: Is it possible that it could be defined, that this title could be defined? Ken Bradshaw: Well, yah, it gets defined all the time. Council Member Strate: Okay. Very good. So, I guess the question is, because they, there's this ten day thing that was mentioned, Sallee mentioned it, and I guess that last sentence on 10-1-4, I'm not sure, do we have any background on that? Uh, the city council may overrule the planning commission's recommendation by a majority vote of its members and it cites city council meeting of 12/5/2000, Ordinance 00-24. Does that ordinance define what that sentence means? Would we have to look? Ken Bradshaw: I'm not..., yeah, I'd have to go look. I'm not sure. Council Member Strate: Okay, yes, we'd have to look. I'm sorry for taking that time. I will defer now. Thank you.

- C. **City Manager** – Reported a new human resource specialist had been hired. He then reminded the council of the upcoming Utah League of Cities and Towns Conference September 10th -12th. Mr. Dixon then informed the council a group of entities from Weber County had been meeting with the goal of preparing an RFP for a county wide recreation master plan. The idea was to work closely together and share recreational facilities. Those involved hoped that RAMP funds could be used for the master plan. He also reported he and the mayor had met with PEC concerning the design of the Harrison Boulevard/Highway 89 interchange. Mr. Dixon concluded his reports by saying the 40th Street project had been slowed down due to the possible involvement of UTA by making 40th Street a major transit corridor. They wanted to make sure the project was done correctly.

- D. **City Attorney Ken Bradshaw** – nothing to report.

City Recorder Leesa Kapetanov then reminded everyone the next council meeting was scheduled to be held at Madison Park.

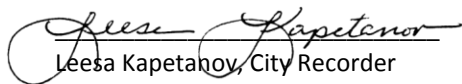
VIII. **ADJOURN**

Mayor Minster then indicated it was time to adjourn the meeting and called for a motion to do so.

Council Member Smith moved to adjourn, followed by a second from Council Member Porter. The vote to adjourn was unanimous.

The meeting ended at 7:31 pm.

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Council Meeting held Tuesday, August 19, 2014.


Leesa Kapetanov, City Recorder

Date Approved by the City Council September 16, 2014

Attachment A

Written Comments From Resident Jerry Cottrell

Before I begin my prepared remarks, I would like to publicly thank Council Member Benard and Council Member Strate for their communications with my neighbors and me to help us to understand their views. Though I may not agree with their conclusions, I believe both of these gentlemen are acting ethically and honorably and are conscientiously trying to reach the right conclusions through careful application of logic and the law. I want to publicly commend Mr. Benard and Mr. Strate for their efforts and I encourage others to emulate them.

For the record, I am not an attorney and I claim no special knowledge or insights as to the City Code. But I have spent several hours trying to understand the code. I am not sure what the polite and legally correct term would be so I will just say it the way I feel it... our City Code is a mess.

I say this because:

1. The thing that first got me looking at this issue was the recent passage of 13-11 which purported to be for the purpose of replacing the Board of Adjustment with a single hearing officer. Now comes the confusion. 13-11 either did or did not change the land use authority in South Ogden. You don't have to be an attorney to conclude that when two intelligent and experienced City Council members can read the same code and reach different conclusions, that something is wrong. We can't even agree on who is the Land Use Authority in the City!
2. If we don't agree on the Land Use Authority, how can we have confidence in decisions that are made on Land Use? And to whom would we appeal if we don't agree?
3. Quantitatively speaking, it appears to me that the part of the code that has not been codified is greater than the part that has been codified. Why is that? Is this intentional or perhaps a case of neglect? Does the City have any standards for getting new ordinances codified? If not, I would like to ask the City to develop such standards and to develop a systematic process of periodic review to make sure the code is kept up-to-date.
4. Our current code was written to the ADA requirements rather than the later and more restrictive FHA requirements. We urgently need to get our code in line with applicable federal and state statutes.
5. Why would I say this is an urgent need? Because there has been an application for a conditional use permit based on the FHA. This application (and any others) will either be approved, rejected, or approved with limits. But whatever the decision, there has to be a legal basis for the decision. But if the decision is based on out-of-date code, it seems to me that this will unnecessarily expose the City to risk during appeal or litigation.
6. Because of the condition of the city code, I would like to suggest that the Mayor consider placing a stay on all CUPs (including the one filed by Mr. Jorgensen) until such time as the code can be cleaned up. It is my belief that

the Mayor has this authority but I would encourage him to ask the City Attorney to research the statutes to see if this is a viable option.

In closing I would just like to make one additional comment and this one is specifically on the Conditional Use Permit application made by Mr. Jorgensen. I won't bother to go through a repetitive recitation of the many arguments against such a facility as I believe my views and the views of my neighbors are already well understood by the Planning Commission and may be understood by the City Council members as well. But rather, I would like to focus on public need. Mr. Jorgensen would like us to think that we need his services and we should welcome him with open arms. But there are several existing substance abuse facilities in and around South Ogden and all report operating well under their capacity. So I would like to suggest that the facts simply do not support the idea that South Ogden needs yet another substance abuse service provider. I am hopeful that whoever the decision makers are over land use will consider public need, or lack thereof, in addition to the other factors of this CUP.

Thank you.